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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/729,218	12/05/2000	Hirokazu So	2000 1670A	3733

7590 12/04/2002

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EXAMINER

SHERR, CRISTINA O

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 12/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

SK

Office Action Summary

Application No.

09/729,218

Applicant(s)

SO, HIROKAZU

Examiner

Cristina O Sherr

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3. 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1 – 14 were examined.

Information Disclosure Statement

2. The information disclosure statement was filed 5 December 2000. It has been placed in the application file, but the information referred to therein has not been considered as to the merits, as references included are not in English nor are they accompanied by English translations. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Specification

3. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3621

15. Claims 1 – 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okayama et al (US 6,466,920B1) in view of Itami et al (US 6,278,984B1).

6. Okayama discloses a recording medium for storing digital data to be read/updated by a data recording and reproducing device, the digital data comprising: a plurality of content data reproducible by the data recording and reproducing device; and reproduction control information used to determine the content data to be reproduced, wherein the reproduction control information includes reproduction sequence information which determines a reproduction order of the plurality of content data while the data recording and reproducing device performs normal reproduction, and reproduction frequency parameters each of which determines reproduction frequency of the content data while the data recording and reproducing device performs special reproduction, the reproduction frequency parameters being updateable (Col. 2 In 10 – Col 3 In 12);

the recording medium according to claim 1, wherein the reproduction frequency parameters are updated according to information relevant to the content data selected at normal reproduction (Col. 2 In 10 – Col 3 In 12);

the recording medium according to claim 1, wherein the reproduction control information includes information about date and time while the content data is recorded (Col. 2 In 10 – Col 3 In 12);

the recording medium according to claim 1, wherein the reproduction control information includes information about date and time while the content data is reproduced last time (Col. 2 In 10 – Col 3 In 12);

Art Unit: 3621

the recording medium according to claim 1, wherein the reproduction control information includes information about the number of times the content data has been reproduced (Col. 2 In 10 – Col 3 In 12);

a data recording and reproducing device for reproducing digital data to be read/updated in the recording medium of claim 1, the device comprising: a determination part operable to read the reproduction control information from the recording medium, and generate information used to determine which content data is to be reproduced based on one of the reproduction sequence information and the reproduction frequency parameters included in the read reproduction control information; a selection part operable to select which content data is to be reproduced based on the information generated by the determination part; and a reproduction part operable to read the content data selected by the selection part from the recording medium for reproduction (Col. 2 In 10 – Col 3 In 12);

the data recording and reproducing device according to claim 6, wherein the determination part generates, based on the read reproduction control information, reproduction frequency parameters which indicate a reproduction frequency while the content data is randomly reproduced, and the selection part randomly selects which content data is to be reproduced in such a manner as to satisfy the reproduction frequency indicated by the reproduction frequency parameters (Col. 2 In 10 – Col 3 In 12);

the data recording and reproducing device according to claim 7, wherein the selection part comprises: a random number generator generating a random number;

and a random number table for interrelating the random number with the content data, and is used to determine which content data is to be reproduced (Col. 2 In 10 – Col 3 In 12);

the data recording and reproducing device according to claim 6, wherein, at normal reproduction, the determination part determines a reproduction order of the plurality of content data based on the reproduction sequence information in the read reproduction control information, and the selection part selects the content data for reproduction in the reproduction order determined by the determination part (Col. 2 In 10 – Col 3 In 12);

the data recording and reproducing device according to claim 6, further comprising an update part operable to update the reproduction control information recorded on the recording medium by writing new reproduction control information thereon (Col. 2 In 10 – Col 3 In 12);

the data recording and reproducing device according to claim 10, wherein the update part updates the reproduction control information on the recording medium based on information relevant to the content data selected at normal reproduction (Col. 2 In 10 – Col 3 In 12).

7. Okayama does not, however, disclose the data recording and reproducing device according to claim 6, above, wherein the determination part includes a timer generating time information, and determines a reproduction frequency for each of the content data by using the time information generated by the timer (Itami, Col. 2 In 38 – col. 6 In 12). Itami, however, does, as noted above. It would be obvious to one of ordinary skill in the

art in order to obtain greater security in the reproduction of digital data with greater economy.

8. Claims 13 - 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okayama et al (US 6,466,920B1) in view of Itami et al (US 6,278,984B1).

9. Okayama discloses a reproduction control information collection system in which an information provider collects reproduction control information about a reproduction frequency of a content reproduced by a user for sale to a content merchandiser, and rewards the user with a bonus for the reproduction control information, the system comprising: a user's system provided on the user side; an information provider's system provided on the information provider side; and a content merchandiser's system provided on the content merchandiser side, wherein the user's system, the information provider's system, and the merchandiser's system are interconnected with one another via a network for information exchange, the user's system transmits the user's reproduction control information over the network, the information provider's system receives the user's reproduction control information which came from the user's system, and transmits, over the network, the information together with an ID uniquely corresponds to the user to the content merchandiser's system, in response to the reproduction control information and the ID provided by the information provider's system, the content merchandiser's system issues a password uniquely corresponds to the ID, and transmits the password to the information provider's system over the network, the information provider's system transmits the password and the ID provided by the content merchandiser's system to the user's system over the network, the user's

Art Unit: 3621

system presents the ID and the password provided by the information provider's system to the content merchandiser's system over the network, and asks for the bonus, and the content merchandiser's system identifies the user with the presented ID and password, and provides the bonus to the identified user (Col. 2 In 10 – Col 3 In 12).

10. Okayama does not, however, disclose the reproduction control information collection system according to claim 13, above, wherein the user's system comprises: a communications part operable to communicate with the information provider's system and the content merchandiser's system via the network; and a reproduction control information management part operable to manage the user's reproduction control information for transmission to the information provider's system via the communications part with a predetermined timing, the information provider's system comprises: a communications part operable to communicate with the user's system and the content merchandiser's system via the network; a user's information management part operable to manage information about the user in addition to the ID; and a reproduction control information database for interrelating the reproduction control information, the ID, and any corresponding content with one another for storage, and the content merchandiser's system comprises: a communications part operable to communicate with the information provider's system and the user's system via the network; a bonus offer part operable to provide the bonus to the user's system via the communications part; and a password management part operable to issue and manage the password, and authenticating a correspondence between the ID and the password presented by the user's system (Itami, Col. 2 In 38 – col. 6 In 12). Itami, however, does,

as noted above. It would be obvious to one of ordinary skill in the art in order to obtain greater security in the reproduction of digital data with greater economy.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cristina O Sherr whose telephone number is 703-305-0625. The examiner can normally be reached on Monday through Friday 8:30 to 5:00.
12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 703-305-9768. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.
13. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

November 27, 2002


JAMES P. TRAMMELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600